Washington Law Review

Volume 31
Number 4 *Annual Meeting of the Washington State Bar Association*

11-1-1956

Address of the Hon. Frederick G. Hamley

Frederick G. Hamley

years you will be asked to serve more often in this capacity than you have been in the past.

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Judge of the United States Court of Appeals for the Ninth Circuit

[President Coffin opened the afternoon session of August 4, 1956 with the announcement that the Honorable Frederick G. Hamley, Judge of the United States Court of Appeals for the Ninth Circuit, would address the association. Judge Hamley's mother, Mrs. O. B. Renniger, was the honored guest of the association.]

Mother, if you have never heard me speak before, I assure you you are not going to hear a formal or lengthy address on this occasion because I am going to speak very informally and very briefly.

I am delighted and pleased and very much appreciate the opportunity to appear here and greet so many of my good friends of the Washington bar and to say a few words. I don't know whether to label it a swan song upon leaving the supreme court or greetings from my new court, the court of appeals in San Francisco, but I do leave here with a good many regrets and many pleasant memories, and I hope that my new work will be such that I can often be back with my good friends of the bar of the State of Washington.

What Mr. Coffin said with respect to New York, perhaps I ought to explain. I have been in New York City for the past three weeks attending school, The New York University School of Law. One of the largest law centers in the country has just put on the first seminar for appellate court judges ever held in America. They limited the attendance at this seminar to twenty state supreme court judges and federal court of appeals judges. They had the full twenty there. About fifteen or sixteen of them were from state supreme courts and then there were several from the courts of appeal. There were two from the Eighth Circuit, Judge Murrah from the Tenth Circuit and I was there from the Ninth Circuit. There were other federal judges in for special lectures, like Chief Judge Clark of the Second Circuit and one of the judges of the Third Circuit.

We had a most interesting three week's session and it was so satisfactory that it was the consensus of all that it should be continued as a regular program.

I should also say that Judges Hill and Finley of the Washington State Supreme Court were present, so that the court in Olympia was

as well represented as any of the state courts. I am sure that they gained greatly from it and that other members of the court will undoubtedly participate in future seminars.

Several have asked me, as I have met them informally outside here, what I am going to talk about today. Someone suggested that perhaps you would be interested in knowing how Senators Lander and Eastland treated me at my Senate Confirmation Hearings. Others have said that perhaps I ought to tell you how it feels to have a living wage as a federal judge.

On the former, I will let the record speak for itself. The hearing lasted four minutes. On the latter I can only say I have not yet received any of the emoluments of the office. The first salary check has not come through, so I can't speak from personal experience as yet.

I think perhaps the best thing I can say is to tell you, first, something of my impression of the state judicial system of Washington, based not only upon my personal experience in Olympia upon the State Supreme Court, but in my work with the other judges at various meetings throughout the country such as the seminar I just attended, the Conference of Chief Justices, which I have attended the last two years, the Section of Judicial Administration in the American Law Institute, the Institute of Judicial Administration and so on. In those meetings I have come into contact with judges from all parts of the country. There have been exchanges of information both at formal sessions and informally, and I can say, very frankly, that from them I have gained a very fine impression of the judicial system in this state. I think it ranks very high in the nation and that we can all be rightly proud of the system we have.

We have, to begin with, an excellently integrated bar association which is active through its committees in very important work: public relations work, disciplinary work and all of the other fields in which state bar associations can appropriately participate.

We have an active Judicial Council.

We have a judicial system that is on the non-partisan ballot that is not, as in so many states, on the Republican or Democratic or other partisan tickets.

We have some of the important Federal Rules of Civil Procedure incorporated in our system such as the discovery rules and the pre-trial rules.

We have the general statute giving the State Supreme Court general rule making power.

Our trial court system, as we all know, is in such condition today that there is substantially no delay in the trial of cases. It is so shockingly different in many of the large metropolitan centers of the East where there is from three to four years delay between the time the case is at issue and the time of the trial. The result is, of course, that many cases are settled, perhaps on an unsatisfactory basis, or parties do not even pursue the judicial remedy at all, but seek relief through arbitration or in some other method.

I could go on almost indefinitely enumerating the good points of our state judicial system as I see it, and yet we all know, of course, that there is much to be done, that there are lines of improvement in every direction that we need to pursue in this state; and I know that the bar association of this state is actively engaged in thinking about them, as is the Judicial Council.

Among other things, perhaps we all realize that there ought to be a thorough review of the justice of peace situation in the State of Washington. Several other states have done an excellent job in that regard, and as we realize that the justice of the peace is the judge with whom the great majority of the people come into contact, it is apparent that the defects and weaknesses in that system must be discovered and corrected before we can be sure that our judicial system is in a position to command the top respect of the public.

We need the adoption of further rules from the Federal Rules of Civil Procedure and the Judicial Council has been working on that.

We have matters in connection with the work load of the State Supreme Court which certainly require attention.

The State Supreme Court was organized in 1909, that is, it was increased from seven judges to nine judges in 1909. At that time the population of the state was 1,141,000. Today it is 2,586,000. The business has increased at a higher ratio than the population. The number of trial court judges in 1909 was thirty-eight. Today it is sixty-six or seven. In 1909 there was one State Supreme Court judge for every 4.2 trial court judges. Today there is one Supreme Court judge for every 7.4 trial court judges. So, there is almost an 100 per cent increase in trial court judges per supreme court judge, and that is a rough way of measuring the increase in the appellate business.

You have today, of course, fields of litigation which did not even exist twenty or thirty years ago. The automobile traffic cases, the advanced field of administrative law and many other types of cases—more recently, the civil rights litigation—all of these are running through the

trial courts and into the supreme court and requiring a great deal of work that was not formerly required. I think on the whole, the cases themselves are more complex, and the job of research in each case, considering the vast precedent there is today as compared to a few years ago, is much greater.

There are 2,100,000 decided cases in the Decennial Digest today. Compare that with the 5,000 in the time of Coke or the 10,000 in the time of Blackstone, and you can see why a judge in those days could write a text book that purported to include most of the basic law of the day.

Those are just some ideas regarding the problem of the State Supreme Court as to the work load and the urgency of meeting it. If you are to have an effective continuation of the judicial system the delay of litigation from the beginning until the termination must be kept out.

There is also the matter of judicial salaries, of which I can now speak frankly since it no longer involves me. When I come into contact with the judges in some of the other parts of the United States and in the federal courts and see some of the differences, the problem was brought home very clearly to me. I cannot understand, for example, why a trial court judge in New York City should receive $30,000 as compared to the salary our trial court judges receive in this state, or why a trial court judge in the federal system, the federal district judges, should receive more than $10,000 a year more than the state trial court judges who do just as important, or more important, work.

Likewise with the appellate court. Why should a court of appeals judge receive over $10,000 a year more than a State Supreme Court judge of this state, a judge who does just as important or more important work. I say perhaps more important, because the State Supreme Court is to all intents and purposes the court of last resort in this jurisdiction, whereas the court of appeals as we all know, is an intermediate court and any errors which they inflict are subject to review by the United States Supreme Court.

Another phase of the judicial salary problem is this anachronism in the constitution which makes it impossible to grant salary increases effective immediately. The 1953 legislature found a need for a small increase in salary, but as to some judges of the State Supreme Court, it cannot become effective for four years; as to others, it cannot become effective for six years. As for trial court judges, we have as we know, some new ones coming on the bench immediately receiving $3,000

a year more than judges who have served for twenty years. Why should those things continue?

The provision, of course, is in the constitution by reason of an old-fashioned idea that it was necessary in order to keep the judiciary independent from the legislature so that it would be impossible for the legislature to reward or punish the judges. This is a possible basis for argument in the case of a single state officer such as a governor or an attorney general or auditor or someone of that sort. There, conceivably, a legislature could reward or punish that officer by a salary increase or decrease, but when you are speaking of the judiciary, you are speaking of all the judges of the state, and when the legislature grants a general salary increase, why should it not become effective immediately? Why should not these inconsistencies between salaries be avoided? These inconsistencies have been avoided in Colorado; and in Iowa; in the last two years, and in about twelve other states. This is another matter which this state can be working on.

Well, I am just pointing out that there are a few things that need to be attended to and cared for. I am sure that this State Bar Association and the Judicial Council are aware of them and are working on them. But considering the really important things, I say, and I am very proud to say it, that I regard the judiciary of the State of Washington as standing very high in our country, and I consider it a great honor and a privilege to have had the opportunity of serving on the Supreme Court in the State of Washington.

Report of the Judicial Council on Expediting the Work of the Supreme Court

By Alfred J. Schweppe of Seattle

Mr. President, members of the Washington State Bar Association and friends.

Former Chief Justice Hamley, now Circuit Judge of the Ninth Circuit, has broken down into the substantial component parts, the subject on which I will comment briefly this afternoon.

I am appearing here as executive secretary to the Judicial Council, a position which I have held since those remote days of 1929 when, as those who are old enough may remember, I was momentarily dean of the University of Washington Law School. I have always been interested in the improvement in the administration of justice. I have, I think